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Dear Sir or Madam:

This is in response to your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted shows that you were established according to Chapter [redacted] of the [redacted] Code of [redacted], Annotated. Section [redacted] of the statute provides as follows:

"It is hereby declared to be the policy of this state to allow and promote the establishment and development of free public library service throughout this state as part of its provisions for public education.

The board of supervisors of any county in the State of [redacted] or other governing bodies of the counties of this state, and municipalities and towns, through their governing bodies, may establish and maintain or aid in establishing and maintaining free public libraries for the use of the citizens of the respective counties, municipalities or towns, either separately or in connection with free public libraries already established therein. For said purpose said governing body may acquire the necessary real estate either by purchase, gift or donation and may erect the necessary buildings thereon."

Under a "regional library contract" the Boards of supervisor of [redacted] and [redacted] Counties agreed to jointly establish and maintain a regional library system. You have no articles of association or articles of incorporation under which you are organized. The Boards of supervisors, which are the counties' governing bodies, select the trustees who manage and control the system. Under section [redacted] of the statute, the powers and duties of the trustees are as follows:

"(1) to adopt such by-laws, rules and regulations for their own guidance and for the government of the library as they deem expedient;

(2) have the supervision, care, and custody of all property of the library, including the rooms or buildings constructed, leased or set apart therefor;

- (3) employ a librarian, and upon his recommendation employ such other assistants as may be necessary, prescribe their duties, fix their compensation and remove them for a cause;
- (4) submit annually to the governing body a budget containing estimates for the ensuing year;
- (5) have exclusive control of the finances of the library;
- (6) accept such gifts of money or property for library purposes as they deem expedient;
- (7) on recommendation of librarian purchase books, periodicals, maps, and supplies for the library;
- (8) and do all other acts necessary for the orderly and efficient management and control of the library. But no expenditure made or contracted by the trustees shall be binding on any county or municipality so as to require any payment in excess of funds made available for library purposes under this article."

You stated in your application that you are part of the state public library system and that you are financially accountable to the state and to the counties and cities from whom you receive support. You are supported by general funds from local cities and from a tax levied by the two counties.

Section 501(c)(3) of the Code provides that an organization may be recognized as exempt from federal income tax provided that it is organized and operated exclusively for charitable and educational purposes and no part of the net earning of which inures to the benefit of any individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Revenue Ruling 74-15, 1974-1 C.B. 126, provides that a public library organized as a separate entity under a state statute, without the power to impose taxes for its operation but whose funds are obtained by certification of a tax rate needed for its operation to the rate-making authority, qualifies for exemption under section 501(c)(3) of the Code.

Revenue Ruling 60-384, 1960-2 C.B. 172, provides that a wholly-owned state or municipal instrumentality which is a separate entity, and not an integral part of the state or municipal government, may be exempt from federal income tax under section 501(a)(a) of the Code if it is organized and operated exclusively for purposes described in section 501(c)(3) of the Code.

The library services that you provide to the region are charitable and educational in nature. However, according to Rev. Rul. 74-15, a public library qualifies for exemption under section 501(c)(3) of the Code only if it is organized as a separate entity.

You are not organized as a separate entity because you are an integral part of the [redacted] county governments. The Boards of Supervisors of the counties appoint your trustees and are responsible for your fiscal activities. The duties of your trustees are merely administrative and supervisory.

According to Rev. Rul. 60-384, you are a branch or department under the jurisdiction of the counties. You are not organized as a separate entity. Therefore, you cannot be considered for tax exemption as a charitable organization. You are merely an integral part of the county governments.

Therefore, we rule that you do not qualify for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Code.

You have the right to protest this ruling if you believe that it is incorrect. To protest you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted in duplicate within 21 days from the date of this letter and must be signed by one of your principal officers. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 21 days, this ruling will become final and no action will be forwarded to the District Director, Atlanta, Georgia. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

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[REDACTED]

If you do not protest this proposed ruling in a timely manner it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7421(2) of the Internal Revenue Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

You may wish to request a ruling from the Assistant Commissioner, Technical, that contributions to you are deductible because you are an integral part of a governmental unit within the meaning of section 170(b)(1)(A)(v) of the Code.

Sincerely yours,

(Signed) [REDACTED]

[REDACTED]
Chief, Rulings Section 1
Exempt Organizations
Technical Branch

Ccc: EO, Atlanta, *Henry*
ATTN: EO Group

[REDACTED]

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